

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CLARENCE MCNAIR, DOC #292-770 *
Western Correctional Institute *
13800 McMullen Highway SW *
Cumberland, Maryland 21502 *

Plaintiff *

v. *

Civil No.: L-02-2281

ANDRE MACKEY *

Defendants *

JOINT MOTION TO MODIFY DISCOVERY DEADLINE

Plaintiff, Clarence McNair ("Plaintiff"), and Defendant Andre Mackey ("Defendant")
hereby move jointly to modify the discovery deadline and state as follows:

1. On or about February 19, 2003, Magistrate Judge Gesner issued a scheduling order setting September 1, 2003 as the discovery deadline in this case. Exhibit 1.
2. Undersigned counsel have engaged in written discovery (Interrogatories and Requests for Production of Documents) and have attempted to schedule the deposition of Defendant within the original deadline established in the scheduling order.
3. Undersigned counsel have made reasonable, but unsuccessful, efforts complete the discovery by the original deadline established in the scheduling order.

4. As of the date of this filing, the discovery in this case has not progressed to a point that the parties would be able to effectively proceed to trial, much less a final pretrial conference with the Court.

5. Furthermore, on October 27, 2003, counsel for Plaintiff will be in trial in the Circuit Court for Fairfax County, Virginia in the consolidated cases of Fred C. Galzerano, et al. v. Stryker Corporation, et al., Law No. 193739, which has been specially assigned to the Honorable Dennis Smith for over two years. This trial is scheduled to last two weeks.

6. Also, counsel for Plaintiff is also scheduled to be in trial in the United States District Court for the Eastern District of Virginia in the case of Nancy Bartlett, et al. v. Stryker Corporation, et al., Civil Action No. 03-CV-524, which has been assigned to the Honorable Leonie M. Brinkema. Although a trial date has not yet been set in this case, the final pretrial conference is set for September 18, 2003, and it is the Court's policy to set the trial within 4 to 6 weeks from the final pretrial conference. It is anticipated that this trial will last two weeks.

7. Based upon the inability to progress discovery in this matter, at no fault of Plaintiff or Defendant, and for the aforementioned time constraints, undersigned counsel respectfully request an extension of the discovery deadline until November 28, 2003. This extension will afford undersigned counsel additional time to continue to schedule and take the defendant's deposition, as well as try other previously-scheduled trials.

8. Plaintiffs have not previously requested an extension of any deadline in this case.

WHEREFORE, Undersigned counsel jointly request that this Court extend the discovery deadline from September 1, 2003 to November 28, 2003, and for any all other relief as this Honorable Court deems just and proper.

Respectfully submitted,

/s/

Glenn T. Marrow, Esquire
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Federal Bar No. 23731

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Attorney for Defendant, Andre Mackey

*(signed by Mont Brownlee III with
permission of Glenn T. Marrow)*

/s/

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